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Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT ALLEN POOLEY,

Defendant.

CASE NO. 2:21-cr-00111-WBS

**UNITED STATES' RESPONSE TO POOLEY'S
MOTION *IN LIMINE* #2 (TO EXCLUDE
OTHER ACT EVIDENCE UNDER FRE 404(b))**

DATE: April 29, 2024
TIME: 9:00 a.m.
COURT: Hon. William B. Shubb

The government does not oppose Pooley's Motion *in Limine* #2. The government does not intend to admit evidence in its case in chief regarding the specific items Pooley seeks to exclude through his motion: Pooley's prior misdemeanor trespass conviction, his possession of false Mexican identification cards, or his possession of Tramadol on April 2, 2015. Of course, the government reserves its rights should Pooley open the door and place any of the facts in the attached police report at issue. (*See* Exhibit 1). For example, if Pooley were to assert that he has never committed a crime, the government would be entitled to impeach his assertion by evidence of his conviction.

Dated: April 15, 2024

PHILLIP A. TALBERT
United States Attorney

By: /s/ DHRUV M. SHARMA
DHRUV M. SHARMA
Assistant United States Attorney

EXHIBIT 1

455 INDUSTRIAL DR GALT, CA 95632 209-366-7000
FELONY REPORTCase
GPD15-871

OFFENSES	Offenses	Description	Fel/Misd	Date Occurred	Time Occurred	Incident #
	459 PC	Burglary	Felony	04/02/2015	2053	1504020071
	11378 HS	Poss Cntl Sub For Sale	Felony			
	11379(A) HS	Transp/Etc Cntl Sub	Felony	Date Reported	Time Reported	
	487(d)(1) PC	Grand Theft:Car or Farm Animal	Felony	04/02/2015	2053	
	11377(A) HS	Poss Controlled Subst - Misd	Misd			
				Related Cases		
				Date Printed	Time Printed	Printed By
				10/22/2019	16:35:59	188
				Latitude	Longitude	
				0.000000	0.000000	
	Location	Beat	Area	Disposition	Dispo Date	
	986 Park Terrace Dr, Galt, CA 95632	3	53	Cleared By Adult Arrest	04/03/2015	
	Location Type	Location of Entry	Method of Entry	Point of Entry	Alarm System	Means of Attack (Robbery)
	House	Rear	Pried	Sliding Door		
RPT PARTY & VIC	Victim and RP	Drivers License	Cell Phone	Email		
	Dufort, Erika					
	Residence Address	Notified of Victim Rights	Residence Phone	DOB	Age	Sex
	986 Park Terrace, Galt, CA 95632	No			29	F
						Race
					W	
	Business Name and Address		Business Phone	Height	Wt	Hair
				5'5"	130	
	Assistance Rendered/Victim Disposition	Transporting Agency		Means of Attack (Assaults)		
	Description of Injuries	Other Information				
WITNESS	Witness (W)	Drivers License	Cell Phone	Email		
	Houghtaling, Paula					
	Residence Address		Residence Phone	DOB	Age	Sex
						F
					Race	W
	Business Name and Address		Business Phone	Height	Wt	Hair
						Eyes
ARRESTEE	Suspect Arrested (SA)	Action Taken	Charges			
	Pooley, Robert Allen	BOOKING	11377(A) HS, 11378 HS, 11379(A) HS, 459 PC, 487(d)(1) PC			
	Residence Address	Residence Phone	DOB	Age	Sex	Race
	986 Park Terrace Dr, Galt, CA 95632		03/31/1975	40	M	W
	Business Name and Address	Business Phone	Height	Wt	Hair	Eyes
			6'2"	195	BRO	BLU
	Identifying Features	Cell Phone	Drivers License	Arrest Number		
	Aliases	Val Damaged				
VEHICLES	Status	Vehicle Make and Model	License/State	VIN		
	Stolen and Recovered (\$4,000) Involved	2007 Black Hond Rs 2003 White Ford F 150	20D2957 CA 8X67159 CA	JH2SC57107M301129 1FTRX18L73NB01471		
OFFICERS	Prepared By	Date	Assisted By	Approved By	Date	
	208 - Callison, Daniel	04/02/2015	193 - Azevedo, Brian	107 - Smith, Christopher	04/04/2015	
	Routed To	Date	Routed To	Date	Notes	
	DOT DIR, WESTERN REGION FIELD OFFICE	10/22/2019				

CONTROLLED DOCUMENT - DO NOT DUPLICATE

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455 INDUSTRIAL DR GALT, CA 95632 209-366-7000

Case
GPD15-871

FELONY REPORT

MENTIONED	Mentioned - Other (M)	Drivers License	Cell Phone	Email			
	Dause, Bill	[REDACTED]					
	Residence Address		Residence Phone	DOB	Age	Sex	Race
	PO Box 423, Acampo, CA 95220		[REDACTED]	[REDACTED]	72	M	
	Business Name and Address		Business Phone	Height	Wt	Hair	Eyes
				5'5"	150	WHI	BRO
MENTIONED	Mentioned - Other (M)	Drivers License	Cell Phone	Email			
	Hewetson, Gwill						
	Residence Address		Residence Phone	DOB	Age	Sex	Race
				[REDACTED]	33		
	Business Name and Address		Business Phone	Height	Wt	Hair	Eyes

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455 INDUSTRIAL DR GALT, CA 95632 209-366-7000

NARRATIVE

GPD15-871

**GALT POLICE DEPARTMENT
ORIGINAL REPORT****INVESTIGATION:**

On 4/2/15 at approximately 2102 hours, my training officer (Officer Azevedo #193) and I (Officer Callison #208) were on duty in full police uniform, driving a fully marked patrol vehicle. We were dispatched to 986 Park Terrace Dr in regards to a possible break in. Notes on the call indicated that the owner of the house suspected that her ex-husband, Robert Pooley, had entered the residence despite him being evicted.

I searched SSD WebKPF for Pooley, and found that he had been evicted at 1345 hours on 4/2/15.

I contacted the RP and owner of the house, Erika Dufort via telephone. Dufort stated that she was out of state currently, but had a friend check on the residence to make sure no one was there. The friend had seen Pooley's vehicle parked around the corner of the house, but did not see Pooley anywhere. Dufort stated that there was no reason for Pooley's vehicle to be near her house, and that she was concerned Pooley had left his truck there and stolen her motorcycle from the garage. Dufort described Pooley's vehicle as a white Ford F-150. Dufort stated that she had all of the locks replaced and there shouldn't be anyone at the residence. Dufort wanted us to search the house to make sure no one had broken in. Dufort also said that Pooley owned a gun, and kept it in the residence.

Officer Meyerdick #178, Officer Azevedo, and I responded to the residence to perform a building check.

Upon arrival I did not observe any signs of forced entry at the front door. I knocked on the door and rang the doorbell of the residence multiple times, but did not receive an answer. Pooley's vehicle was not parked anywhere on the street near the residence.

I went through the backyard fence of the residence, and observed that a light was on in the garage of the residence. The side garage door was locked and did not appear to have been forced open.

I continued around the back side of the residence and did not observe any open or broken windows or doors. The curtains in the backyard of the residence were drawn up, and I was able to see the interior of the residence using my flashlight.

While shining my flashlight into the interior of the house I observed the profile of a white male adult, later identified as Pooley, standing in the doorway between the kitchen and garage.

I ordered Pooley to show me his hands, and walk toward me with his hands raised. I ordered

Prepared By:

208 CALLISON, DANIEL

Date:

04/03/2015

Approved By:

107 SMITH, CHRISTOPHER

Date:

04/04/2015

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455 INDUSTRIAL DR GALT, CA 95632 209-366-7000

NARRATIVE

GPD15-871

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Pooley to exit the house and detained him in handcuffs. I informed Pooley that he was being temporarily detained in order for us to determine if a crime had occurred. I located a Honda motorcycle key with a key fob attached in Pooley's front right pants pocket when I performed a Terry pat down search of his person.

Officers Meyerdick and Azevedo finished clearing the house, and located Pooley's point of entry. A sliding glass door at the rear bedroom of the residence had pry marks on the door and doorframe where the locking mechanism was located. The door had been pried open, and a dresser that was set in front of it had been pushed forward to create an opening. I took photographs of the pry marks and placement of the dresser for evidence.

Pooley's vehicle was located in the garage of the residence. I was unable to locate Dufort's motorcycle in the garage of the residence, where she said it would be parked.

Officer Azevedo read Pooley his Miranda rights, and Pooley agreed to give a Mirandized statement. Pooley stated that he had paperwork from court allowing him to be in the house in his truck. Pooley consented to officers searching his vehicle.

Pooley's driver side door was the only unlocked door of his vehicle. I observed multiple papers strewn throughout the vehicle, but was unable to immediately locate any papers that appeared to have been issued by a court. I did not find any court paperwork on the dash of the truck or in the visors, and all of the visible papers in the truck appeared to be invoices or bills for a business.

I opened the center console of Pooley's vehicle in an attempt to locate the court paperwork he had mentioned, and discovered a large amount of cash, and four pill bottles. The pill bottles were labeled in spanish, and contained 100 pills each of 100mg Tramadol, a Schedule IV controlled substance. Based on my training and experience I recognized these items as signs that someone is involved in the illicit drug trade. The quantity of pills (400) was much greater than being for personal use, and the assorted denominations of money suggested that he was selling the pills.

I contacted Dufort via telephone to update her on the situation, and ask clarifying questions. Dufort stated the following in summary:

My motorcycle should be in the garage, and I did not have anyone move it. My realtor was at the house today and saw the motorcycle parked in the garage at 4:30pm. My realtor and I are the only people that have the new keys to the house, and the realtor locked the house when they left. I think Robert probably took the motorcycle, there are only two keys for the motorcycle. I have one of the keys, and Robert stole the other one a while ago. I am not sure where he keeps his gun, but I'm pretty sure that it is somewhere in the house and you have my permission to search anything in the house. Robert has a problem with using painkillers, but I'm not sure if he is involved with selling them. When we were still together around four years ago, he had me ask for prescriptions to give to him. I know that he also had multiple

Prepared By:

208 CALLISON, DANIEL

Date:

04/03/2015

Approved By:

107 SMITH, CHRISTOPHER

Date:

04/04/2015

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prescriptions for himself, and that he would occasionally go down to Mexico and buy painkillers. A reason for him having that much cash would possibly be that he doesn't have any bank accounts because he owes money to so many people. END STATEMENT.

I contacted Pooley, who was seated in the backseat of my patrol vehicle, and obtained his Mirandized statement. Pooley stated the following in summary:

I don't sell pills, I only buy them. Usually I have my friend buy them in Mexico, and he mails them to me here in the US. Usually he sends them through UPS and I pick them up at the dropzone. I don't go down to Tijuana and buy pills. I do go to San Diego sometimes, and I was there about 11 days ago. I use about 400mg of Tramadol on a busy day of skydiving, but sometimes only 50mg. The reason I have that much money is because I was giving skydiving lessons, and a bunch of the people paid in cash. I had about six people with me, their names are: Robert, Gustavo, Kelly, Addie, Rodrigo, and Gwill. Each one of these people paid me \$250 in cash, and that's how I got the \$1500.00 that you found in my truck.

When I got to the house all of the exterior doors were locked. I tried to get in at every door, and eventually had to use a hatchet to pry open the rear bedroom sliding glass door. I know that I shouldn't be in the house. I don't know what happened to Erika's motorcycle, she must have had someone come move it. I bet that she will get a call tomorrow that it has been found, but I don't know where it is. I just came to the house to get some things and I was going to leave.

I have a gun in the garage, its right by the washer.END STATEMENT.

I took photographs of the scene for evidence.

I located a Smith and Wesson .22 caliber handgun in the garage, in front of the washer (Model 22A Serial#: UAT9327). The pistol was located in a black box along with two magazines and a scope.

I located the hatchet Pooley used to force entry into the home in a wheelbarrow just outside of the rear bedroom sliding glass door. I took the hatchet for evidence.

I took the Tramadol pills as evidence of illegal drug import, sales, and possession.

I seized the cash located in Pooley's car as evidence of illegal drug sales (\$1516.00).

I booked Dufont's motorcycle key as evidence and Pooley's pistol for safekeeping.

Officer Azevedo located Dufont's motorcycle parked across the street in a school parking lot while we were securing the residence. The motorcycle had been pushed into a parking spot at the school that was concealed by bushes. Pooley continued to deny that he had moved the motorcycle after it was found.

Prepared By:

208 CALLISON, DANIEL

Date:

04/03/2015

Approved By:

107 SMITH, CHRISTOPHER

Date:

04/04/2015

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I returned the motorcycle to the garage, and locked and secured the residence.

Officer Weiler completed the CHP 180 form to report the motorcycle as stolen and recovered (see attachments).

The fact that the motorcycle was seen and photographed parked in the garage at 1630 hours on 4/2/15, Pooley's possession of the motorcycle's key, and that the house was locked and secured prior to Pooley's forced entry, leads me to believe that Pooley moved the motorcycle from the garage and concealed it with the intent to deprive Dufort of ownership of the motorcycle. This act was committed in violation of 487(d)(1) PC (Grand theft auto).

I suspect that Pooley forced entry into the residence with the intent to commit theft of Dufort's motorcycle in violation of 459 PC (burglary).

After speaking with Pooley in regards to the Tramadol found in his vehicle, I believe that he imported a Schedule IV controlled substance into the state of California in violation of 11379 (a) HS (transport/import controlled substance).

The quantity of narcotics, and the large amount of cash possessed by Pooley led me to suspect that he was involved in the sale of narcotics, in violation of 11378 HS (possess controlled substance for sale).

Pooley's possession of controlled substances was done in violation of 11377(a) HS (possess controlled substance).

I transported Pooley to jail for booking on the above charges (487(d)(1) PC, 459 PC, 11379(a) HS, 11378 HS, 11377(a) HS).

I returned to GPD and booked the evidence and safekeeping items into property.

On 4/3/15 I contacted Lodi Skydiving and spoke with Bill Dause and Gwill Hewetson. Both Dause and Hewetson stated that they knew Pooley, and that he was instructing a "coach course" on skydiving on 4/2/15. Hewetson stated that he had paid for the session partially in cash, and that he believed it would not be uncommon for multiple students to pay in cash for the lessons. Hewetson stated that he had paid around 100 dollars in cash, and the rest via PayPal. Based on Hewetson's statement that he paid partially in cash, and Pooley's insistence that he had received equal amounts of \$250 in cash from each student, I believe that Pooley is earning additional income from the sale of narcotics.

I spoke with Dufort on 4/3/15 over the telephone at her request. Dufort stated that she wanted officers to perform extra patrols of her residence at 986 Park Terrace Dr over the next few weeks to make sure that Pooley does not break in. I advised Dufort to seek out a restraining order against Pooley if she feared for her safety. I also advised her to contact the police

Prepared By:

208 CALLISON, DANIEL

Date:

04/03/2015

Approved By:

107 SMITH, CHRISTOPHER

Date:

04/04/2015

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455 INDUSTRIAL DR GALT, CA 95632 209-366-7000

NARRATIVE

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department when she returns to the residence if she wants us to escort her into the building.

DISPOSITION:

Case cleared by adult arrest.

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Prepared By:

208 CALLISON, DANIEL

Date:

04/03/2015

Approved By:

107 SMITH, CHRISTOPHER

Date:

04/04/2015

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455 INDUSTRIAL DR GALT, CA 95632 209-366-7000

SUPPLEMENT 1

GPD15-871

**GALT POLICE DEPARTMENT
SUPPLEMENTAL REPORT****INVESTIGATION:**

On 4/02/2015 at approximately 2053 hours I was riding with Ofc. Callison as his training officer. Ofc. Callison was dispatched to 986 Park Terrace Drive to check the residence for Robert Pooley who had been previously evicted from the residence.

Ofc. Callison located Pooley inside the residence and subsequently detained him in handcuffs. During the investigation I spoke to the RP Erika Dufort on the telephone. Dufort told me the following in summary during the conversation:

My divorce from Robert Pooley was final in January of 2015 and I was awarded the house in the property settlement. Earlier today the Sacramento County Sheriff's department evicted Robert from the house and he should not be there anymore.

Robert was evicted around 2pm. My realtor Paula Houghtaling and a locksmith immediately changed the locks to the house after Robert was evicted. Now, I have a set of the keys to the new locks and my realtor has a set of keys to the new locks. Robert does not.

My realtor took pictures of everything inside the house right after Robert was evicted. She even photographed the interior of the garage showing that my motorcycle was still inside the garage. My realtor was finished at the house and left around 4:30 pm.

I did not give anyone permission to get my motorcycle from the garage and I didn't give anyone permission to move the motorcycle in the school parking lot across the street. Robert stole the motorcycle if it is not inside the garage. EOS.

Dufort emailed me photographs of her house that the realtor took just after the house was secured. See attached.

During our conversation Dufort also told me that Robert Pooley has several different alias' that he uses in an attempt to hide from debtors and to go into and out of Mexico to purchase prescription medication. Dufort sent me photographs of two separate types of Mexico Identification cards that had Pooley's photograph on them with the name Hector Hugo Aguilera Hernandez on them. The cards appeared to be authentic and government issued. See attached.

I asked Pooley about the ID cards while we were driving to the jail. Pooley said that a few years ago he hired a company to take care of some paperwork for Pooley which included getting Mexican ID cards for Pooley. Pooley said he needed the ID cards because he teaches skydiving in Mexico for months at a time and he lives down there a few months out of the year.

Prepared By:
193 AZEVEDO, BRIAN

Date:
04/03/2015

Approved By:
107 SMITH, CHRISTOPHER

Date:
04/04/2015

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455 INDUSTRIAL DR GALT, CA 95632 209-366-7000

SUPPLEMENT 1

GPD15-871

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Pooley said he believed that he was getting ID cards with his own name on them and he was shocked to find that the false name was on the ID cards. Pooley said for this reason he never used the cards to identify himself while he was traveling into and out of Mexico. Pooley did not have a reason why he still possessed the cards instead of destroying them. Pooley said the cards were paper clipped to a stack of papers on the counter inside the residence where we located and arrested him.

On 4/03/2015 at approximately 1916 hours I responded back to 986 Park Terrace Drive to meet with Dufort's realtor Paula Houghtaling to help her re-enforce the locks to the house and to lock the roll up garage door. I met with Houghtaling who told me that she had been at the house the day before and that all of the doors were locked when she left. Houghtaling said the sliding glass door to the master bedroom was unlocked when Pooley was evicted but she locked it and all the other doors before she left around 1630 hours. Houghtaling confirmed that Dufort's motorcycle was still in the garage when she left. Houghtaling said she took photographs of the property inside the house including the motorcycle inside the garage prior to leaving the house.

Per Dufort's earlier verbal consent I searched the kitchen area for the Mexico ID cards that Pooley stated were there. There was an 8 1/2 by 11 inch box on the counter that contained several pieces of paper. Inside the box I located a green Mexico ID card in the name of Hector Hugo Aguilar Hernandez. The ID card had Pooley's picture in the upper right corner and appeared to be the same ID card that Dufort sent me a picture of the day before. I collected the ID card along with the paper it was attached to. The paper was written in Spanish so I was unable to read it.

Later the same day I spoke to Sgt. Rocha who speaks Spanish to have him translate the letter to me. Sgt. Rocha advised that the letter was a medical certificate that was issued by a municipal doctor. The certificate had Pooley's photograph on it and the name Hector Hugo Aguilar Hernandez. This document and the ID card further support the belief that Pooley frequents Mexico, most likely to purchase or import prescription medication. The certificate also contradicts Pooley's statement that he has never used the Mexico ID cards to identify himself.

I transferred the photographs to CD and I booked the CD into evidence along with the medical certificate and ID card.

DISPOSITION:

Attach to original.

Prepared By:

193 AZEVEDO, BRIAN

Date:

04/03/2015

Approved By:

107 SMITH, CHRISTOPHER

Date:

04/04/2015

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455 INDUSTRIAL DR GALT, CA 95632 209-366-7000
SUPPLEMENT 2

GPD15-871

GALT POLICE DEPARTMENT ORIGINAL REPORT

INVESTIGATION:

On 4/6/15 I contacted DDA Pongratz in regards to the cash I had seized from Pooley's truck. I advised DDA Pongratz of the circumstances of the case, the location of the narcotics, and the seizure of the money. DDA Pongratz advised me to complete the Asset Seizure packet, and forward it to his office. DDA Pongratz stated that his office would serve Pooley with the paperwork.

I contacted Pooley via telephone in order to fill out the financial questionnaire attached to the packet.

I completed the packet, scanned and uploaded it to the case file, and submitted it to Lynn Hutchison to forward to the DA's office.

On 4/7/15 I was contacted by Officer Azevedo #193 in regards to property received in relation to the case.

The property received was a Mexico voter ID card, which had been dropped off by Laura Wright. The name on the card was Hector Hugo Aguilar Hernandez, and the picture on the card was of Pooley.

This adds to the evidence that Pooley visits Mexico using fake identification cards in order to enter the country, purchase drugs, and import them into California.

I scanned the ID card and attached it to the case file. The ID card was booked into evidence (property item 208-7).

ADDITIONAL PROPERTY

Item #9, Status: Evidence

1 Item(s) mexico voter id card. mexico voter id card

CONTROLLED DOCUMENT - DO NOT DUPLICATE

Prepared By:

208 CALLISON, DANIEL

Date:

04/07/2015

Approved By:

79 STOFFEL, GERALD

Date:

04/08/2015

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